

Chapter 9 Board of Examiners Act

Part 1 General Provisions

63G-9-101 Title.

This chapter is known as the "Board of Examiners Act."

Enacted by Chapter 382, 2008 General Session

Part 2 Board of Examiners

63G-9-201 Members -- Functions.

- (1) As used in this chapter:
 - (a) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.
 - (b) "State" means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, college, university, Children's Justice Center, or other instrumentality of the state.
- (2) The governor, the state auditor, and the attorney general shall constitute a Board of Examiners, with power to examine all claims against the state or a political subdivision, for the payment of which funds appropriated by the Legislature or derived from any other source are not available.
- (3) No claim against the state or a political subdivision, for the payment of which specifically designated funds are required to be appropriated by the Legislature shall be passed upon by the Legislature without having been considered and acted upon by the Board of Examiners.
- (4) The governor shall be the president, and the state auditor shall be the secretary of the board, and in the absence of either an officer pro tempore may be elected from among the members of the board.

Amended by Chapter 350, 2016 General Session

63G-9-202 Procedures -- Adjudicative proceedings.

The Board of Examiners shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-9-203 Meetings.

The meetings of the board shall be held upon the call of the president or any two members.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-9-204 Record of proceedings.

The board must keep a record of all its proceedings, and any member may cause the member's dissent to the action of a majority upon any matter to be entered upon such record. An abstract of all claims must be entered upon the minutes of the board before the same are acted upon.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-9-205 Rules and regulations.

The board may, in writing, establish rules and regulations not inconsistent with law for its government.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-9-206 Witnesses -- Subpoena -- Examination -- Fees.

The president of the board may issue subpoenas and compel the attendance of witnesses and the production of books and papers before the board or any member thereof; and any member of the board may administer oaths and may examine witnesses. Whenever a witness is subpoenaed before the board to testify against any claim pending before it, the board may allow a reasonable fee to such witness for attendance, which fee must not exceed the fees allowed by law to witnesses in civil cases, and must be paid out of the appropriation for the contingent expenses of the board; provided, that in no instance shall a fee be allowed to a witness who has appeared in behalf of a claimant.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-9-207 Depositions.

Each member of the board may take depositions to be used before it.

Renumbered and Amended by Chapter 382, 2008 General Session

**Part 3
Review of Claims**

63G-9-301 Audit and approval of claims -- Overexpenditure by agencies.

- (1)
- (a) The Board of Examiners shall audit any claim presented to it, if the settlement of the claim is required by law.
 - (b) If the claim is approved, the board shall transmit it to the Legislature with a statement of the reasons for the approval.
- (2) When an agency's line item appropriation has been overexpended and a written report is submitted to the board as required by Section 63J-1-217, the board shall review the report and either:
- (a) recommend and submit to the Legislature any supplemental appropriations or corrective legislation that may be needed; or
 - (b) recommend other internal procedures or policies that will make an overexpenditure in the future unlikely.

Amended by Chapter 183, 2009 General Session

63G-9-302 Form for presentment of claim against the state or political subdivision.

Any person having a claim against the state or a political subdivision, for which funds have not been provided for the payment thereof, or the settlement of which is not otherwise provided for by law, must present the same to the Board of Examiners, accompanied by a statement showing the facts constituting the claim.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-9-303 Meeting to examine claims -- Notice of meeting.

- (1) At least 60 days preceding the annual general session of the Legislature, the board shall hold a session for the purpose of examining the claims referred to in Section 63G-9-302, and may adjourn from time to time until the work is completed.
- (2) The board shall cause notice of such meeting or meetings to be published on the Utah Public Notice Website created in Section 63F-1-701.

Amended by Chapter 118, 2016 General Session

63G-9-304 Adjustment of claims -- Recommendations to Legislature.

- (1) The board must, at the time designated, proceed to examine and adjust all claims referred to in Section 63G-9-302, and may hear evidence in support of or against them, and shall report to the Legislature the facts and recommendations concerning them as it may think proper.
- (2) In making its recommendations, the board may state and use any official or personal knowledge which any member of the board may have touching such claims.
- (3) The board shall not pass upon or send to the Legislature any claim for which the state or a political subdivision would not otherwise be liable were it not for its sovereign immunity.
- (4) Notwithstanding Subsection (3), claims wherein the state or a political subdivision would be liable, were it not for its sovereign immunity, whether recommended by the board for approval or disapproval, shall be reported by the board to the Legislature with appropriate findings and recommendations as above provided.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-9-305 Publication of abstract of claims allowed and rejected.

The board must make up its report and recommendations at least 30 days before the meeting of the Legislature; and a brief abstract of the report, showing the claims rejected, and those allowed and the amounts thereof, must be published in a newspaper published at the seat of government before the meeting of the Legislature for such time as the board may prescribe.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-9-306 Reconsideration of rejected claims.

The board shall not entertain for a third time a demand against the state or a political subdivision once rejected by it or by the Legislature, unless the facts or reasons are presented to the board as in actions between private parties would furnish sufficient ground for granting a new trial.

Renumbered and Amended by Chapter 382, 2008 General Session

Part 4

Appeal of Claim Reviews

63G-9-401 Appeal to Legislature.

Any person interested who is aggrieved by the disapproval of a claim by the board may appeal from its decision to the Legislature by filing with the board a notice thereof, and upon the receipt of such notice the board must transmit the demand and all the papers accompanying the same, with a statement of the evidence taken before it, to the Legislature.

Renumbered and Amended by Chapter 382, 2008 General Session